

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

In re:	§	Case No. 05-21207
	§	
ASARCO LLC, et al.,	§	Chapter 11
	§	
Debtors.	§	Jointly Administered
	§	

**STIPULATION RELATING TO PROOFS OF CLAIM FOR EL PASO COUNTY
METALS SURVEY SITE AND DONA ANA METAL SITE
AND MODIFICATION OF CASE MANAGEMENT ORDER**

COMES NOW Debtor ASARCO LLC ("ASARCO"), the United States of America ("United States"), the State of New Mexico ("New Mexico" and, together with the United States, the "Governments"), and the City of El Paso ("El Paso" and, together with ASARCO and the Governments, the "Parties"), and hereby Stipulate that resolution of the claims involving remediation of soil at residential yards in the El Paso County Metals Survey Site (the "El Paso Site") and the Dona Ana Metal Site (the "Dona Ana Site" and together with the El Paso Site, the "Sites"), presently scheduled for hearing as part of Band One of the Case Management Order ("CMO"), will be treated as stated below. As basis therefore, the Parties hereto state as follows:

1. Subsequent to the filing of the proofs of claim relating to the Sites (namely, Claim No. 10746 filed by the United States on July 31, 2006, Claim No. 9401 (filed on May 17, 2006) and Claim No. 10332¹ (filed on July 25, 2006) by New Mexico, and Claim No. 9894 filed by El Paso on July 20, 2006²), ASARCO and the United States have performed additional work at the Sites.

¹ In accordance with the CMO, New Mexico's Claim No 10332 is not scheduled to be estimated under the terms of the CMO.

² In accordance with the stipulation between ASARCO and El Paso (docket # 4481) entered by the Court on April 18, 2007, only a portion of El Paso's proof of claim is subject to the CMO and the terms of this Stipulation.

2. After the proofs of claim were filed, certain yards have been remediated and further sampling and analysis has been performed in an effort to identify as completely as possible at this time the additional yards that need to be remediated. This information has been shared with ASARCO, and ASARCO and the United States believe the amount of future work remaining at the Sites is well-defined.

3. The Parties agree that clean-up of the remaining yards would likely be less expensive if ASARCO, rather than the Governments, performs the work.

4. In March 2007, the Trustee for the ASARCO Environmental Trust approved the 2007 Annual Budget. The 2007 Annual Budget allocates \$2,150,000 for the reimbursement of costs associated with the response actions taken and to be taken to remediate residential yards at the Sites in 2007. ASARCO will use this funding to clean up additional residential yards, and it is anticipated that approximately 165 of the remaining residential yards can be cleaned up in 2007. The United States and ASARCO currently expect that enough money will be allocated in the 2008 Annual Budget to pay for the remaining remediation activities of residential yards at the Sites as described in this Stipulation.

5. The position of the United States is that (a) the estimated cost to ASARCO for completion of the residential soils clean-ups that may be incurred after May 1, 2007, at the El Paso Site will not exceed \$4,770,000, and (b) ASARCO's estimated liability to the United States with respect all other response actions or costs that may be incurred at the El Paso Site after May 1, 2007, will not exceed \$50,000 per year. These estimates are premised on the assumption that ASARCO will perform the remaining work required to implement the remaining soil remediation.

6. ASARCO's position is that the estimated cost to ASARCO for completion of the soils clean-ups at the El Paso Site that may be incurred after May 1, 2007 is at least \$3 million.

7. The position of the Governments is that (a) the estimated cost to ASARCO for completion of the soils clean-ups that may be incurred after May 1, 2007, at the Dona Ana Site will not exceed \$200,000, and (b) ASARCO's estimated liability to the Governments with respect all other response actions or costs that may be incurred at the Dona Ana Site after May 1, 2007, will not exceed \$20,000.00 per year. These estimates are premised on the assumption that ASARCO will perform the remaining work required to implement the remaining soil remediation.

8. ASARCO's position is that the estimated cost to ASARCO for completion of the soils clean-ups at the Dona Ana Site that may be incurred after May 1, 2007 is at least \$150,000.

9. This Stipulation is without prejudice to the positions of the United States, ASARCO and El Paso regarding the Injunctive Order for work with respect to the El Paso Site.

10. The Parties have agreed that the United States' claims for response costs incurred prior to May 1, 2007 are not subject to this Stipulation and will continue to be addressed under the CMO.

11. The proofs of claim of the Governments for response costs incurred after May 1, 2007 for the Sites are removed from Band One of the CMO and from the effect of the CMO.

12. Nothing in this Stipulation shall be deemed to limit the authority of the United States to take response action under Section 104 of CERCLA, 42 U.S.C. § 9604, or any other applicable law or regulation, or to alter the applicable legal principles governing judicial review of any action taken by the United States pursuant to that authority.

13. This Stipulation will only become binding upon ASARCO after the Court approves a motion for approval of the settlement set forth herein, after notice to all parties in interest, pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure.

14. This Stipulation will not be approved until it is submitted for public comment following notice of the Stipulation in the Federal Register. The United States and New Mexico each reserve the right to withdraw or withhold its consent if the public comments regarding the Stipulation disclose facts or considerations which indicate that the Stipulation is inappropriate, improper or inadequate. At the conclusion of the public comment period, the Governments will provide the Court with copies of any public comments and their responses thereto. If this Stipulation is not authorized and approved by the Court, this Stipulation shall be of no force and effect, whereupon nothing herein shall be deemed an admission of any fact or waiver of any right of any Party with respect to the matters contained herein.

AGREED TO AND APPROVED:

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